



State of New Jersey

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February 7, 1984

Honorable Reginald Stanton, J.S.C.
Morris County Courthouse
Morristown, NJ 07960

Re: State of New Jersey, DEP v. Scientific
Chemical Processing, et als., Carlstadt Site

Dear Judge Stanton:

I am in receipt of Certification of Inmar Associates, submitted in response to the DEP's Motion, returnable February 10, 1984. Mr. Egan has also forwarded me a copy of a "Cleanup Agreement" recently executed by Inmar Associates, Inc. and S & W Waste Inc. (copy attached).

While the DEP is pleased that Inmar has finally executed a contract with S & W, there still are no assurances when work will be performed. As early as August, 1983, Mr. Egan advised this Court and DEP that cleanup work would begin at the Carlstadt site forthwith, yet the DEP still has not received the results of analyses for samples taken in September of 1983. I respectfully submit that Inmar should be required to submit a performance bond or escrow payment in an amount equal to the cost of cleanup to assure that the cleanup takes place in an expeditious manner.

In his Certification, Mr. Terpak attempts to place the blame on S & W for the slow progress being made at the Carlstadt site. However, pursuant to this Court's prior orders, responsibility for the Carlstadt cleanup rests with Inmar. Accordingly, it cannot properly shift the blame to its contractor. If there were problems between these parties, Inmar had the obligation to solve them promptly in order to insure that the progress of the cleanup was not impeded.

Both the Cleanup Agreement and Mr. Terpak's Certification raise the issue of the manifests which must be signed before the hazardous waste can be moved offsite. Under the section entitled "Services to Be Performed" at paragraph C, the Agreement states:



Honorable Reginald Stanton, J.S.C.
February 7, 1984
Page Two

"The parties expressly understand that nothing in this document shall be read to require either owner or S & W to prepare, sign or otherwise file hazardous waste manifests as generators of the material which is the subject of this agreement. It is further understood and agreed that either the owner or S & W shall have the right to terminate this agreement should it be required to act as a generator of said material by persons not a party to this agreement."

As set forth in DEP's moving papers, it takes the position that defendants associated with SCP should sign the manifests as the generators, (i.e. Mr. Sigmond, Mr. Presto, Mr. Case and/or Mr. Barnes). In the alternative, DEP submits that Inmar should be required to sign the manifests as the owner of the property on which the waste is situated. If this Court finds that Inmar must sign the manifests, it would have the right under the Contract with S & W to terminate the agreement. Accordingly, direction is needed from this Court regarding execution of the manifests and Inmar's continued responsibility to expeditiously clean up the site.

Thank you for your attention to this matter.

Respectfully yours,

IRWIN I. KIMMELMAN
Attorney General of New Jersey

By David W. Reger
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Deputy Attorney General

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Enclosure

cc All Counsel
Mr. Leif R. Sigmond
Mr. Herbert G. Case